

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION

AVIS RENT-A-CAR SYSTEM, INC.¹

Employer

and

CASE GR-7-RC-22241

GENERAL TEAMSTERS UNION
LOCAL NO. 406, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, AFL-CIO²

Petitioner

APPEARANCES:

Theodore R. Oppewall, Attorney, of Birmingham, Michigan, for the Employer.
Fillipe S. Iorio, Attorney, of Grand Rapids, Michigan, for the Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record³ in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ The Employer's name appears as amended at the hearing.

² The Petitioner's name appears as amended at the hearing.

³ Both parties filed briefs, which were carefully considered.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

Petitioner seeks to represent 21 full-time and regular part-time rental sales agents and lead rental sales agents, rovers, service agents and lead service agents, mechanics, and utility technicians employed by the Employer at the Grand Rapids Gerald Ford International Airport (GR Airport); but excluding clerical employees, guards, and supervisors as defined in the Act. The Employer contends that the unit should also include 43 shuttlers and lead shuttlers. There is no clear evidence of an area or industry practice with respect to inclusion or exclusion of shuttlers from units of rental sales agents, service agents, and mechanics/technicians. I find that the shuttlers enjoy a sufficient community of interest to require their inclusion in the unit based, *inter alia*, on their common supervision, overlap of job functions, frequent contact, functional integration, and similar terms and conditions of employment.

The Employer operates a car rental location at the GR Airport, which is part of the Employer's administrative Grand Rapids Zone. The Grand Rapids Zone includes the GR Airport rental counter, readyline and return area; the Grand Rapids Service Area and Administration Office; the Grand Rapids Damage and Maintenance Garage; the Grand Rapids Fleet Overflow Lot; a car rental delivery and return car pick-up area at Smith Industries in Grand Rapids; a car rental delivery and return car pick-up area at Herman Miller in Zeeland; and agency locations at Kentwood, Plainfield, Muskegon County Airport, and Holland. The agency locations are independently owned, but rent cars from the Employer's fleet. There are no employees of the Employer employed at the agency locations. The Smith Industries and Herman Miller locations are operated for the convenience of customers. There are no rental counters at those locations; cars are merely dropped off and picked up there for customers. The Western Michigan District operations, which includes the Grand Rapids Zone and Toledo, Ohio, is headed by Kathleen Belle, district manager, who reports to Marge Harrison, city manager. The city manager is responsible for the entire fleet operations for the State of Michigan and the Toledo area. The GR Airport operation is headed by a station manager, Vikki Swidorski.

At the GR Airport, the rental counter is located inside the airport terminal. The hours of operation are 6:00 a.m. to midnight. There are three computers at the rental counter, allowing up to three rental sales agents to work at the same time. There are a total of eight rental sales agents and one lead rental sales agent. Two of the rental sales agents are part-time employees. The rental sales agents greet the customers, prepare the rental contract on the computer, and direct the customers to the readyline, the area where the rental cars are parked in numbered spaces adjacent to the airport building. Cars are returned to an area in the same parking lot. A rover, who is classified as a rental sales agent, meets the customer and prepares a receipt with a hand held computer. The rover checks the mileage and gas level when preparing the receipt. Rovers, as well as shuttlers, check the returned vehicles for personal belongings and shuttlers sometimes help customers with their luggage.

The Grand Rapids Service Area is located on the GR Airport grounds about a mile and a half from the terminal and a mile from the car return area. Employed at that location are seven service agents, three of whom work part-time, and two lead service agents. The service agents prepare the cars for rental, including filling the gas tank, cleaning, and washing the cars, a procedure which takes 12 to 15 minutes a car. After a car is prepared for rental, the service agent fills out a ready line space slip, one copy of which stays with the vehicle and the other copy is kept by the service agent.

The Grand Rapids Damage and Maintenance Garage is located a mile from the service area. Employed at that location are one technician/mechanic, a licensed mechanic position, and two technician/utility employees. They handle vehicle repairs. Also near the garage is the overflow lot.

There are 40 shuttlers and 3 lead shuttlers, all of whom work part-time schedules. Part-time work is considered 16 to 25 hours a week for all employees. There are shuttlers on duty from 6:30 a.m. to 10:00 p.m. At the GR Airport, the shuttlers drive the cars from the return area to the service area or the garage, and return the cars to the ready line. They may fill in for a rover due to an absence, but the record does not disclose with what frequency that occurs. A shuttler may drive the car through the car wash if the service agents are busy. A service agent may assist with shuttling from the maintenance garage to the service area. Rarely, perhaps once a month, due to congestion, a rental sales agent will assist with shuttling. A vehicle transfer document is generated by a rental sales agent or manager before a shuttler can drive a car off the GR airport grounds. Lead service agents and lead shuttlers are being trained to prepare the documents. The shuttler signs the transfer document. When a car is returned to the ready line, the shuttler notes the parking space on the ready line space slip and gives the slip and car keys to a rental sales agent at the counter inside the terminal. Two way radios are used

by the rental sales agents, rovers, lead service agents, lead shuttlers and managers to communicate with the shuttlers when shuttle service is required. A chase, or van, driven by a shuttler, is used to transport shuttlers to locations where they are needed. With respect to the Smith Industries and Herman Miller locations, the rental contracts are generated at the counter in the airport terminal and the shuttlers drive the cars and contracts to those locations to meet customers. Cars are also picked up at those locations by shuttlers and returned to the GR Airport. The shuttlers also transport cars between the GR Airport and agency locations or between agency locations. They may fill the gas tanks before delivering cars to an agency location.

About 20 shuttlers punch in and out at the Muskegon County Airport agency location, about 45 miles from the GR Airport. The rest punch in and out at the GR Airport. All the shuttlers receive direction from the station manager or other personnel at the GR airport. The shuttlers who punch in and out at Muskegon tend to transport cars to and among the agency locations at the greater distances from the GR Airport. Most of the time they begin their days by driving to the GR Airport to pick up cars to transport to agency locations. During busy periods, they may also help shuttle cars at the GR Airport. The Muskegon shuttlers drive cars to locations in Traverse City, Kalamazoo, Zeeland, and Holland, as well as Kentwood and Plainfield. Some of the shuttlers who punch in and out at the GR Airport also service Kentwood and Plainfield.

The rental sales agents, service agents, and shuttlers are commonly supervised by the GR Airport station manager. The mechanic and utility technicians are supervised by the maintenance manager, currently an open position. The hourly wage ranges are as follows: rental sales agents, \$8.25 to \$11.50, with the lead rental sales agent earning \$14.45; service agents, \$8.25 to \$10.20 with the lead service agents earning \$11.10 to \$11.40; shuttlers, \$6.00 to \$6.25, with the lead shuttlers earning \$7.25; and utility technicians, \$10.10 to \$12.45, with the mechanic earning \$18.25. Sales agents also receive a percentage of their sales. All the employees receive a six-month raise and annual raises thereafter, the amounts of which differ by classification. Annual reviews are prepared for all employees, except the shuttlers. All the full-time employees enjoy the same benefits. Part-time employees in any classification are not eligible for benefits. There is a break room located behind the rental counter which is used primarily by the rental sales agents, but is available for use by any employee. There is also a break area in the administrative office area adjacent to the service area which is used primarily by service agents and shuttlers. All employees are subject to the same general application and orientation procedures, but each classification receives additional specific training and safety information. All employees are subject to a 90-day probation period and are required to have driver's licenses. There are no other educational or experiential requirements for

any of the classifications, other than the mechanic, who requires a license. All employee classifications are represented at monthly employee participation meetings and safety meetings. All employees participate in the yearly employee survey and are eligible to participate in the EAP and recognition award programs. Uniforms are provided by the Employer; the shuttlers and rovers wear the same uniforms. A good number of the shuttlers are retired from other jobs. No shuttlers have transferred to the other petitioned-for classifications. There is minimal permanent interchange among the other classifications; 2 service agents became utility technicians within the last couple of years, and 3 service agents became rental sales agents 10 to 12 years ago.

The Act does not require that the unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit; the Act requires only that the petitioned-for unit be appropriate. *Transerv Systems*, 311 NLRB 766 (1993); *Morand Brothers Beverage Co.*, 91 NLRB 409, 418 (1950). A union is not required to seek representation in the most comprehensive grouping of employees unless such grouping alone constitutes an appropriate unit. *Bamberger's Paramus*, 151 NLRB 748 (1965). Additionally, a petitioner's desires as to unit is a relevant consideration. *Marks Oxygen Co.*, 147 NLRB 228, 230 (1964). However, a proposed bargaining unit based on an arbitrary, heterogeneous or artificial grouping of employees is not appropriate. *Moore Business Forms*, 204 NLRB 522 (1973); *Glossar Bros. Inc.*, 93 NLRB 1383 (1951). In determining whether a particular unit is appropriate the Board determines whether the employees share a community of interest. *Kalamazoo Paper Box Co.*, 136 NLRB 134 (1962). If the unit sought by the petitioner is appropriate, the inquiry ends. If, however, it is inappropriate, the Board will scrutinize the employer's proposals. *Dexcon, Inc.*, 295 NLRB 109, 111 (1989).

In determining whether the employees in a proposed unit share a community of interest separate and apart from employees outside the unit, the Board considers certain criteria including wages, hours, and benefits; supervision; qualifications, training, and skills; job functions; degree of contact; integration of work functions; and interchange. *Home Depot*, 331 NLRB No. 168 (2000). The shuttlers share a significant community of interest with the other petitioned-for employees to warrant their inclusion in the unit.

The shuttlers are supervised by the station manager, as are the rental sales agents and service agents. None of the employees are required to have any educational or vocational skills upon hire, other than the mechanic, except for a driver's license. There is some overlap of job functions. The shuttlers will sometimes drive the cars through the car wash for the service agents and the service agents will sometimes drive cars from service to maintenance and back. Shuttlers may also have customer contact as do the rental sales agents and rovers.

There is frequent contact between the shuttlers and rental agents, and between the shuttlers and service agents. Although half the shuttlers punch in and out in Muskegon, they usually drive to the GR airport on a daily basis where they are in contact with petitioned-for employees. There is a high degree of functional integration in the operation of the rental car service and the shuttlers are an integral part of that process. While there is no evidence of permanent interchange between the shuttlers and the other classifications, there is also minimal interchange among the other classifications. The wage range of the shuttlers is less than the other classifications, but not significantly lower than the lowest wage rates of the other petitioned-for employees. Although all the shuttlers are part-time employees, there are part-time employees in the other classifications. The part-time status of the shuttlers does not alone support their exclusion from the unit. *J.C. Penney Co.*, 328 NLRB 766 (1999).

Petitioner also argues to exclude the shuttlers from the petition-for unit, due to their age and their retirement status. Age is not a valid consideration for exclusion from a unit. *Metal Textile Corp.*, 88 NLRB 1326, 1329 (1950). Similarly, the Board has held that social security annuitants who otherwise share a community of interest with other unit employees are to be included. *Holiday Inns of America, Inc.*, 176 NLRB 939 (1969). In this case, as discussed above, the shuttlers share a significant community of interest with the other petitioned-for employees.

5. Accordingly, I find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:⁴

All full-time and regular part-time rental sales agents and lead rental sales agents, service agents and lead service agents, rovers, technician/mechanics, technician/utility employees, and shuttlers employed by the Employer at or out of its facility located at the Grand Rapids Gerald Ford International Airport; but excluding guards and supervisors as defined in the Act.

⁴ As the unit found appropriate is larger than the unit requested in the petition, Petitioner is accorded a period of 14 days from the date of the Decision and Direction of Election in which to submit to the undersigned an additional showing of interest, if needed. In the event the Petitioner does not wish to proceed with an election, it may withdraw its petition without prejudice by notice to the undersigned within 14 days from the date of this Decision and Direction of Election.

Those eligible to vote shall vote as set forth in the Direction of Election attached hereto.

Dated at Detroit, Michigan this 13th day of June, 2002.

(Seal)

/s/ William C. Schaub, Jr.

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